



The Comptroller General  
of the United States

Washington, D.C. 20548

## Decision

Matter of: David Riddering  
File: B-223004  
Date: November 3, 1986

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### DIGEST

The employee is not entitled to real estate selling expenses since he had not acquired an interest in the property prior to the time he was first definitely notified of his transfer, as required by the travel regulations. Before notice of the transfer, neither he nor an immediate family member held title to the residence, and he had only an informal arrangement with his in-laws to purchase under indefinite terms as to price and time of purchase.

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### DECISION

In this decision<sup>1/</sup> we hold that Mr. David Riddering, an employee of the Social Security Administration, is not entitled to real estate expenses for the sale of his residence incident to his transfer of official duty station. His sale would not satisfy the requirement of the Federal Travel Regulations that the employee must have acquired an interest in the property at the time the employee was first notified of the transfer.

### BACKGROUND

On July 16, 1985, the employing office informed Mr. Riddering that he would be transferred from Mayaguez, Puerto Rico, to Arlington, Virginia, effective September 15, 1985. Mr. Riddering indicates that in February 1985 he had entered into an informal arrangement for the purchase of a home in Mayaguez owned by his wife's parents whereby he made a down-payment of \$9,000 and agreed to live in the home with them until they completed the construction of a new residence with the proceeds of the downpayment. He was to take title when the parents moved to their new residence. He has furnished a copy of a personal check he issued to the parents

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<sup>1/</sup> Mr. Walter W. Pleines, Social Security Administration Accounting Officer, Baltimore, Maryland, requested our decision.

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dated February 26, 1985, in the amount of \$6,000, bearing the notation "Pronto-3M + 6M = 9M Balance \$ 1,000," which he indicates means a \$10,000 downpayment consisting of \$3,000 paid in cash plus \$6,000 paid by check, leaving a balance of \$1,000. The parents negotiated the check and the bank stamp indicates a clearance date of March 5, 1985.

Mr. Riddering also indicates that in addition to issuing the check, he had obtained a personal bank loan to finance the downpayment, and he later shared occupancy of the home with his wife's parents. Mr. Riddering has informally advised us that he undertook no other additional steps to implement the informal arrangement or purchase the home prior to the official notification of his transfer on July 16, 1985. It was not until he learned of the transfer that he took action to actually purchase the home. On July 31, 1985, a deed of sale was executed by a formal document reciting the terms of his purchase to be a downpayment or deposit of \$9,000 (rather than the \$10,000 amount referred to on the check the previous February), a sales price of \$24,368.37, and Mr. Riddering's assumption of a mortgage in the amount of \$15,368.37.

The agency contracted with a private company to provide relocation services, including purchase of the residence from Mr. Riddering, as authorized by 5 U.S.C. § 5724c. That company completed the appraisal process and presented a purchase offer, but the agency has instructed the company to delay the purchase pending our determination whether Mr. Riddering qualifies for such services. The agency also asks, should we determine that he does not qualify, whether the contract cancellation fee the agency is committed to pay the relocation services company should be collected from Mr. Riddering, and whether a \$9,000 deposit he made on the property may be reimbursed to him as a miscellaneous relocation expense.

#### ANALYSIS

To be entitled to real estate selling expenses, the transferred employee must have acquired an interest in the property prior to the date the employee was first notified of the transfer. See Federal Travel Regulations, para. 2-6.1c (Supp. 4, August 23, 1982), incorp. by ref., 41 C.F.R. § 101-7.03 (1985). The employing office questions whether Mr. Riddering is entitled to reimbursement under this provision because he had only an informal arrangement to purchase the home before he was definitely notified of his transfer on July 16, 1985.

Prior to July 16, 1985, Mr. Riddering did not have title to the residence and any arrangement he had with his wife's

parents was informal and indefinite with the terms unfixed. The downpayment was changed from \$10,000 to \$9,000 and we have no evidence of a fixed purchase price or date of purchase prior to the notice of transfer. Significantly, the objective of the downpayment was not restricted to the house purchase, but was also for the express purpose of providing the parents funds to complete construction of their new home which Mr. Riddering has advised us occurred a year later in July 1986. The only evidence we have of definite terms is the title transfer document incorporating the sales price, downpayment, mortgage assumption, as well as the time of purchase. That agreement was not entered into until July 31, 1985, after the notice of transfer.

Although Mr. Riddering and his wife's parents have stated in affidavits that he had a financial and moral commitment to purchase the home, the interests of all parties were not inflexibly locked into the informal arrangement in February 1985, and Mr. Riddering obtained no legal interest in the property until July 31, after he received the notice of transfer. Mr. Riddering had no financial commitments to third parties to purchase the home before notice of his transfer. There was no lender to receive a mortgage interest in the property, and under real estate practices in Puerto Rico title search and other steps to complete the purchase were not undertaken until the time of title transfer. Compare B-162274, September 11, 1967.

#### CONCLUSION

For the above reasons, Mr. Riddering lacked the required interest in the property at the time he was first definitely notified of his transfer, and he is not entitled to reimbursement of real estate selling expenses. Since Mr. Riddering's actions appear to have been undertaken in good faith, he need not be charged with any costs incurred by the Government in cancelling a contract with the company providing relocation services. Finally, there would be no basis for Mr. Riddering recovering his downpayment of \$9,000 as a forfeiture, since he completed the purchase and took title to the residence.

*Shilton J. Nowlan*  
for Comptroller General  
of the United States